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SUBJECT: NORWAY WILL SUPPORT UN DRAFT ON INDIGENOUS PEOPLES

REF: STATE 78749

Classified By: Pol/Econ Counselor Mike Hammer, reasons 1.4 (b) and (d)

Summary

1.(C) Despite our tripartite demarche Norway will support, albeit unenthusiastically, the Draft UN Declaration on the Rights of Indigenous Peoples (the "Draft"). Norwegian MFA officials plan to accept the Draft (and anticipate forthcoming Norwegian governmental support), with certain reservations. The Norwegians will request "Explanations of Vote," clarifying areas of the Draft which may challenge Norway's existing agreements/laws with its Sami population. The Norwegians believe that the Draft adequately addresses our concerns noted in reftel. End of Summary.

Reluctant Support

2.(C) On May 23 we delivered reftel points (together with Juliet Hay, First Secretary to the New Zealand Embassy at The Hague) to Petter Wille, Deputy Director General in the MFA's Global Affairs Section, and Guri Hestflaat in the MFA's Section for Human Rights and Democracy. Wille accepted our points, acknowledging the good contact Norway had in this process with the U.S., New Zealand and Australia. The Norwegian Embassy in Canberra had been given the reftel points in advance by the Australians. Stating that he knew our tri-partite positions "quite well," Wille felt that negotiating the Draft was a "difficult process" and, although Norway was not "entirely happy" with the Chair's proposal, his country would support the Draft (although formal government support had not yet been given). He noted that "given the time we've spent, this is the best we could get." Norway's support would be conditioned on issuing an "Explanation of Vote," noting Norwegian concerns/interpretations of several areas of the Draft, including self-determination issues and Article 26 (specifically focusing upon land rights). In addition, the Norwegian MOD had raised concerns with the MFA concerning Article 28 (military activities), although Wille felt that MOD support was forthcoming.

Sami Concerns

3.(C) The basis of Norwegian concerns with the Draft rested on issues where the government's relationship with the indigenous Sami people could be made ambiguous or questioned. For example, Wille noted that self-determination rights

between the government and the Sami rested squarely in the existing agreements with the Sami Parliament and the Finnmark Act (concerning land ownership issues). The strength of the Sami influence in the review process of the Draft was reinforced by Hestflaat, who noted the vocal presence of a Sami adviser in the Norwegian delegation. In addition, she made reference to a draft Joint Sami Statement from the Sami Ministers in Sweden, Finland and Norway. Although she could not release the Statement to us, she revealed that it frequently references the Draft.

Norway's Legal Positions

¶4. (C) Hestflaat addressed the legal justifications noted in reftel points. With respect to our concerns that the Draft's Articles 2 and 3 could be misconstrued as conferring a unilateral right of secession, the Norwegians disagree, stating that international law does not allow any such secession rights. Concerning veto rights (specifically under Article 20 of the Draft), Hestflaat's interpretation is that Article 20 mandates a good faith obligation of states to consult in order to obtain consent. She noted that this argument resolved prior issues between Norway and its indigenous Sami population. Finally, she finds that the Draft's Articles 45 and 27 (concerning the right of redress) are adequate.

The Draft's Success?

¶5. (C) Hestflaat believes early signals indicate that the Draft would pass. She understood that Mexico, the newly-formed UN Human Rights Council Chair, is keen on adopting the Draft soon. In addition, she informed us that the EU has apparently coordinated member views to recommend adoption (although Hestflaat noted that individual EU states may, as with Norway, support the Draft with specific Explanations of Vote). She further stated that UNHRC member Finland has also given positive signals on adopting the Draft. Finally, she commented that Canada appears not yet ready to adopt the Draft.
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